IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 7846 OF 2005

Smt.Sayyad Shamshad Mohammad... ... Petitioner.

Versus

State of Maharashtra & Ors.. ... Respondents.

Mr. R. P. Walvekar for the Petitioner.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 1ST AUGUST, 2006.

P.C. :

Heard Mr. Walvekar, counsel for the petitioner.

2. By this writ petition, the petitioner seeks to impugn the order dated 22nd February, 2001 passed by the Education Officer (Secondary) Pune Zilla Parishad, Pune.

3. The writ petition has been filed on 10th October, 2005 i.e. almost after 44 months. There is no explanation for the gross inordinate delay and laches. In our view the writ petition is liable to be dismissed on this ground alone.

4. Besides that, we find that the impugned order came

to be passed pursuant to the order of this Court passed on 4th October, 2000 in Writ Petition No. 2838 of 2000 (Jehangir Rasulbhai Shaikh & Ors. v/s The State of Maharashtra & Ors.). In paragraphs 5 and 6 of the order, the Division Bench observed thus:

> "5. This court, after considering the rival claims, vide order dated July 7, 2000, thought it appropriate to direct the Respondent No.2 - Education Officer, to investigate the rival claims and submit his report to the Court. From the material now placed on record it transpires that only 10 posts were sanctioned in the Respondent No.4 School, whereas besides the Petitioners the Respondent Nos.5 to 7 and 9 to 14 have been stated to be appointed. It will not be proper for this court, in writ jurisdiction, to go into the correctness, authority or legality of the appointments of Respondent Nos.5 to 7 and 9 to 14. On the one hand the Petitioners claim to be validly appointed on the sanctioned posts, whereas the said Respondents claim to the contrary. The proper course, therefore, would be to direct the Education Officer to examine as to which of the Petitioners or Respondents can be said to have been appointed in accordance with law. The said question is left open to be examined by the Education Officer, viz.

Respondent No.2 herein. The Education Officer shall take appropriate decision in the matter after hearing the Petitioners as well as Respondent Nos.5 to 14 on the question as to who would be entitled to be declared as validly appointed against the sanctioned posts of Respondent No.4 school and other incidental matters between the parties inter se. This enquiry shall be completed within a period of 2 months from the receipt of this order.

6. Be that as it may, it is obvious from the record that, Respondent No.4, which is a public trust, all is not well with the management of the said trust, particularly with regard to the running of the Respondent No.4 school. We have no hesitation in making these observations as it is incomprehensible as to how 20 persons can be appointed against 10 sanctioned posts. This is surely a strong circumstance that there is total mismanagement of the affairs of the Respondent No.4 trust. In the circumstances, we feel that it would be in the interest of all concerned to direct the Education Officer to forthwith take steps in appointing an Administrator to look after the day to day affairs of the Respondent No.4 trust including of the school, to obviate any further mismanagement in the affairs of the public trust.

5. In the light of the aforesaid observations, the Education Officer proceeded with the enquiry to find out which of the employees were appointed validly by respondent no.3 School against sanctioned posts and the impugned order came to be passed. Before passing the impugned order, the Education Officer considered and called for the school records, concerned parties educational and professional eligibility, service period and gave hearing. We find no flaw in the impugned order. Writ petition does not deserve to be admitted and is dismissed in limine.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)